



MEETING DATE: 9/18/06

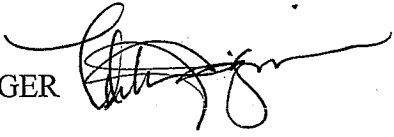
ITEM NO.

3

COUNCIL AGENDA REPORT

DATE: SEPTEMBER 11, 2006

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER 

SUBJECT: ADOPT RESOLUTION AUTHORIZING THE TOWN MANAGER TO
EXECUTE PUBLIC ART EXTENSION WITH PHILIP J. LANGE

RECOMMENDATION:

Adopt the resolution authorizing the Town Manager to execute Loan Receipts with Philip J. Lange (Attachment 1) extending the loan period for sculpture, "Los Gatos Pescado," through June 2009; and to execute future amendments to the loan receipt, as long as they conform to the adopted Town budget.

BACKGROUND:

Phil Lange's sculpture, "Los Gatos Pescado," was installed on top of the kiosk located at the corner of Main Street and Fiesta Way. This balanced kinetic steel and stone structure is 4'6" in length and 8" wide. It has a working diameter of 6' and weighs 29 lbs. The sculpture was designed to mimic the swimming motion of a catfish.

In accordance with Resolution 1992-78 governing the loan of public art, the Art Selection Panel has advised the Arts Commission to extend the loan period for this piece of artwork to June 30, 2009. At its August 9, 2006 meeting, the Arts Commission voted to forward this recommendation to Council.

DISCUSSION:

The Art Selection Panel and the Arts Commission recommend extending the terms of loan for Phil Lange's sculpture, "Los Gatos Pescado" through June 30, 2009. The artist has been contacted. He approved the extended loan terms, and has signed an amended Loan Receipt (Attachment 2), with the following exhibits: Conditions of Loan form, and a Release of Liability, Assumption of Risk and Indemnity Agreement.

PREPARED BY: REGINA A. FALKNER 
Community Services Director

Reviewed by: JS Assistant Town Manager AK Town Attorney Clerk Finance
Revised: 9/11/06 3:16 pm

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MAYOR AND TOWN COUNCIL

SUBJECT: ADOPT RESOLUTION AUTHORIZING THE TOWN MANAGER TO
EXECUTE PUBLIC ART EXTENSION WITH PHILIP J. LANGE

August 10, 2006

Extending the loan of the Lange sculpture to June 30, 2009, will align the loan expiration date with those of artists Eric Ziemelis and Marilyn Kuksht, whose works are also at the Civic Center. Approval of the resolution will authorize the Town Manager to execute future amendments to the Lange loan receipt, as long as it conforms to the adopted Town budget. This authorization was previously approved for artists Ziemelis and Kuksht.

CONCLUSION:

The Arts Commission, Art Selection Panel, and the artist approve extending the loan through June 30, 2009, and recommend approval to the Council. If Council decides against extending the loan term, the artist will be asked to remove his sculpture.

ENVIRONMENTAL ASSESSMENT:

The recommended action is not a project defined under CEQA and no further action is required.

FISCAL IMPACT:

No additional costs are anticipated as a result of extending these loan agreements.

Attachments:

1. Draft Resolution of the Town Council of the Town of Los Gatos Authorizing the Town Manager to Execute a Loan Receipt with Philip J. Lange for the Artwork "Los Gatos Pescado."
2. Town of Los Gatos Loan Receipt and Exhibits A and B signed by Philip J. Lange for the Artwork, "Los Gatos Pescado."

Distribution:

Art Selection Panel

Arts Commission

Philip J. Lange

RESOLUTION NO. 2006 - ____

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AUTHORIZING THE TOWN MANAGER TO EXECUTE A LOAN RECEIPT
WITH PHILLIP J. LANGE FOR THE ARTWORK "LOS GATOS PESCADO"**

WHEREAS, the Town Council wishes to encourage the placement of art in public areas; and

WHEREAS, the artist Philip J. Lange has offered the loan of his sculpture "Los Gatos Pescado" to the Town, and it has been installed on the lawn of the Civic Center; and

WHEREAS, a loan receipt for "Los Gatos Pescado" authorizing the installation of the artwork was signed by the Town Manager as authorized by Council on April 7, 2003; and

WHEREAS, the Art Selection Panel and the Arts Commission have recommended to Council that the loan of the artwork be extended June 30, 2009.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
DOES HEREBY RESOLVE THAT THE TOWN MANAGER IS AUTHORIZED TO
EXECUTE:**

- 1) The Town of Los Gatos Loan Receipt, from Philip J. Lange for the sculpture "Los Gatos Pescado," for the period June 30, 2003 to June 30, 2009, attached as Attachment 2; and,
- 2) Future amendments to the Loan Receipt so long as they conform to the adopted Town budget.

**TOWN OF LOS GATOS
LOAN RECEIPT**

(Please fill out all applicable areas in block letters.)

DATE: March 20, 2006

FROM: Philip J. Lange

ADDRESS: 13899 Longridge Road

Los Gatos, CA 95033

PHONE: (408) 353-2511

TERM OF LOAN: FROM June 30, 2003 TO June 30, 2009

- Town and Artist have option to terminate the loan with 90 days notice.
- Town has option to buy.

I have read and understood the "Conditions of Loan."

RECEIVED FROM: 

Signature

RECEIVED BY: _____

Town Manager

ARTIST: Philip J. Lange TITLE: "Los Gatos Pescado"

DESCRIPTION: A balanced/kinetic steel and stone sculpture of a catfish that mimic's the swimming motion of fish. Length 4'6", width 8", working diameter 6', weight 29 lbs.

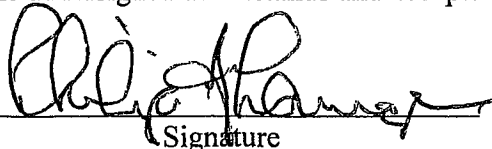
VALUE: \$1,500 *

* Appraisal has not been obtained by the Town.

CONDITIONS OF LOAN

1. The artist or other owner (the "Depositor") of the work(s) of art referred to on the face of this receipt ("Work(s)"), agrees to temporarily lend the Work(s) to the Town, and the Town agrees to grant the Depositor permission to display the Work(s) on Town property, subject to the conditions set forth herein. There will be no monetary compensation to the Depositor for the loan of the Work(s).
2. Absent a separate written agreement to the contrary between the Town and the Depositor, the Town will exercise the same care with respect to the Work(s) as it does in the safekeeping of comparable property of its own.
3. Objects accepted by the Town as loans will not be returned to anyone other than the Depositor except upon receipt of a written order from the Depositor or his/her duly authorized agent or legal representative.
4. In the case of the death of the Depositor, the legal representative of the deceased is requested to notify the Los Gatos Town Council as soon as possible, giving his or her full name and address in writing.
5. Unless the Town is notified in writing to the contrary, the Work(s) may be photographed and reproduced for the Town's private purposes. The Town assumes the right, unless specifically denied by the Depositor, to record, reproduce or examine the Work(s) by all photographic means available. It is understood and agreed that all copyrights remain the property of the Depositor, and that no photographs or reproductions will be published without the written consent of the Depositor.
6. Unless the Town and the Depositor otherwise agree in writing, the Depositor shall be responsible for the installation and removal of the Work(s). Installation, removal and related display activities shall be performed in a manner that will avoid damage to public property.
7. The Depositor acknowledges that permission to exhibit the Work(s) may be revoked at any time by the Town or its agent by delivery of a written Notice of Termination. In such event, the Work(s) shall be removed and relocated by the Depositor. If the Work(s) is/are not reclaimed by the Depositor within sixty (60) days from the date of the Notice of Termination, the Town or its agents may place the Work(s) in storage and to charge removal fees and costs. If after ___ years, the Work(s) have not been reclaimed, then, in consideration for its storage and safeguarding during such period, the Work(s) shall be deemed and unrestricted gift to the Town.
8. The Depositor agrees to execute the Release of Liability, Assumption of Risk and Indemnity Agreement attached hereto.

The undersigned understands and accepts this Agreement.


Signature

3-29-06
Date



TOWN OF LOS GATOS
RELEASE OF LIABILITY, ASSUMPTION OF RISK
AND INDEMNITY AGREEMENT

Philip J. Lange (hereinafter referred to as "Undersigned") will be engaging in the following described event or activity in the Town of Los Gatos, California.

The event or activity concerns the "Artwork" described as follows: (Include date and location of installation.)

"Los Gatos Pescado," a balanced/ kinetic steel and stone sculpture, installed on top of the kiosk at the intersection of Fiesta and Main Street and

includes the installation and removal of the Artwork, any failure of the Artwork resulting from faulty design, construction, installation or maintenance, whether willful or negligent, and any damage to the Artwork, no matter what the cause.

The Undersigned does hereby WAIVE, RELEASE AND DISCHARGE the Town of Los Gatos, its officers, agents and employees (hereinafter referred to collectively as "Town") from any and all claims for damages, personal injury, property damage, or wrongful death occurring or arising out of the event or activity described above. This release is intended to discharge, in advance, the Town from any and all liability arising out of the above event or activity even though that liability may arise out of negligence or carelessness on the part of the Town.

It is recognized that there are certain risks inherent in the activity the Undersigned is participating in. Nevertheless, the Undersigned voluntarily agrees to ASSUME ANY AND ALL RISKS of injury or death from whatever cause inherent in or arising from participation in this event or activity whether such risks are known or unknown, and to release, discharge, hold harmless and INDEMNIFY the Town for any and all damages, claims, causes of action, losses, liability, judgments, costs, costs of collection, and attorney's fees arising out of or related to the above described event or activity.

It is understood and agreed that this RELEASE, ASSUMPTION OF RISK and INDEMNITY AGREEMENT is to be binding on the Undersigned's heirs, personal representatives, next of kin, spouse and assigns.

I have read this Agreement and understand its terms.

3-29-06
Date

PHILIP J. LANGE
Print Name
[Signature]
Signature